IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.191 OF 2003

1. Shri Narayan Dharma Mahale, son of Dharma Mahale,

2. Smt. Laxmi Narayan Mahale, wife of Petitioner no.l

both residents of house no.832,, Velvada, Poingunim, Canacona,Goa ...Petitioners.

versus

1. Shri Pandu Durga Mahale, major, barber and his wife,

2. Smt. Annaprna Pandu Mahale (deceased)

3. Shri Vassu Durga Mahale (deceased)

4. Smt. Devyani Vassu Mahale (deceased)

both represented through their legal heirs/representatives:-

(a) Miss Suvarna Vassu Mahale

(b) Shri Viraj Vassu Mahale (c) Shri Viresh Vassu Mahale

(c) Shri Viresh Vassu Mahale

(d) Shri Sidhu Vassu Mahale

(e) Miss Yogeets Vassu Mahale

all of minor ages and

all represented by
their guardian by
defendant no.1

5. Shri Ramesh Durga Mahale, of major age, service and his wife

6. Smt. Jeevan Ramesh Mahale, of major age, housewife,

all residents of H. No.834 Velvada, Painguinim, Taluka Canacona, Goa ... Respondents.

Mr. Sudesh Usgaonkar, Advocate for the Petitioners.

Mr. C.A. Coutinho, Advocate for the Respondents.

CORAM : F.I. REBELLO,J.

DATED : JUNE 12, 2003

ORAL JUDGMENT

Rule. Respondents waive service. Heard forthwith.

2. In my opinion, after considering the impugned Order, it is not possible to sustain it. The Application by the Petitioners herein was filed before the hearing commenced. The relevance of the documents can only be considered at the stage of appreciation of evidence. At the time of considering the application all that the learned Judge had to consider is whether a case had been

made out for production of the documents. The learned Judge had not addressed himself to to that issue and as such the Ordr suffers from an error apparent on the face of the record.

3. In my opinion, the Petitioner had made out a case as to why the documents could not be produced and in that view of the matter, the impugned Order is liable to be set aside.

Rule is made absolute in terms of prayer clause a). There shall be no order as to costs.

F.I. REBELLO,J.

ac.